In the High Court of Punjab and Haryana at Chandigarh.

Regular Second Appeal No.3270 of 2006.

Date of decision:16.10.2006.

Prem and others.

...Appellants.

Versus

Santu and another.

...Respondent.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.G.S.Gandhi Advocate for the appellants.

...

Judgment.

S. N. Aggarwal, J.

Ram Kishan (predecessor-in-interest of the appellants) filed civil suit for declaration and permanent injunction challenging the judgment and decree dated 22.5.1982 passed by the Court of Shri B.L.Singhal, Sub Judge Ist Class, Narwana in civil suit No.598 of 1981 titled “Santu Versus Ram Kishan and another”. His version was that Santu had nothing to do with the suit property which belonged to Ram Kishan and his brother Chhotu but Santu had falsely obtained the said judgment and decree. It was further pleaded that neither there was any settlement between the parties nor Ram Kishan had appeared before the

trial Court for making any statement. Therefore, the judgment and decree dated 22.5.1982 were not binding on him and Santu, respondent No.1 had no right, title or interest in the suit property.

Santu, respondent No.1 had contested this case. He had pleaded that family settlement had taken place as a result of which the parties had appeared before the trial Court and had made statements on the basis of which judgment and decree dated 22.5.1982 were passed which are legal and valid documents.

Issues were framed.

In support of his case, Ram Kishan had examined Pardeep Kumar as PW-1, Suba Singh as PW-2, Sita Ram Sharma as PW-3 and Ram Kishan plaintiff himself appeared as PW-4. On the other hand, Santu respondent examined Shamsher Singh Malik, Finger Print and Handwriting Expert as DW-1 while Santu respondent himself appeared as DW-2. Shri Shamsher Singh Malik, Finger and Handwriting Expert, DW-1 compared the disputed thumb impressions of Ram Kishan on his statement made in the Court with his standard thumb impressions and reported that the disputed thumb impressions on the statement made in the Court tallied with standard/specimen thumb impressions of Ram Kishan. On the basis of this evidence, the learned trial Court dismissed the suit filed by Ram Kishan vide judgment and decree dated 7.11.2003.

Ram Kishan filed an appeal. The learned Lower Appellate Court up-held the finding of fact recorded by the trial Court and

dismissed the appeal vide judgment and decree dated 10.3.2006.

Hence, the present appeal.

The submission of learned counsel for the appellants was that the trial Court has failed to consider document Exhibit P3 which was allegedly compromise deed on the basis of which decree dated 22.5.1982 was passed. This compromise was not thumb marked by Ram Kishan. Document, Exhibit P-4 was also not considered by which the land was mortgaged by Ram Kishan and he had shown himself to be the co-owner of the suit. Document, Exhibit P-19 was also not discussed by the Courts below.

These submissions have been considered. Santu respondent had examined the Finger Print and Handwriting Expert who identified the thumb impressions of Ram Kishan on the statement made by him in the learned trial Court on the basis of which judgment and decree dated 22.5.1982 were passed. The said judgment and decree have been proved in the learned trial Court. Ram Kishan has not examined any witness to dis-prove his thumb impressions on the statement made in the learned trial Court which became the basis for the judgment and decree dated 22.5.1982. This document alone was sufficient to reject the version of Ram Kishan, plaintiff (predecessor-in-interest of the appellants). The other documents were virtually inconsequential in the face of evidence which proved the thumb impression of Ram Kishan on the statement made in the Court.

There is, therefore, nothing on the file to disturb the

findings of fact recorded by the Courts below.

No merit.

Dismissed.

October 16,2006. (S. N. Aggarwal)
Jaggi Judge